

**BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION
SUITE 350
121 SEVENTH PLACE EAST
ST. PAUL, MINNESOTA 55101-2147**

Beverly Jones Heydinger	Chair
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
John Tuma	Commissioner
Betsy Wergin	Commissioner

IN THE MATTER OF THE PETITION OF LAKE
COUNTY MINNESOTA FOR DESIGNATION
AS AN ELIGIBLE TELECOMMUNICATIONS
CARRIER

MPUC Docket No. P6944/M-15-65

COMMENTS OF THE MINNESOTA DEPARTMENT OF COMMERCE

The Department respectfully submits these Comments for the consideration of the Commission.

I. PROCEDURAL BACKGROUND

On January 29, 2015, Lake County Minnesota d/b/a Lake Connections (Lake County) filed a Petition with the Minnesota Public Utilities Commission (Commission) seeking designation as an Eligible Telecommunications Carrier (ETC) in Minnesota for the purpose of qualifying for the receipt of Federal Connect America Funds awarded on a provisional basis, Lake County in conjunction with the Federal Communications Commission's Rural Broadband Experiments.

On February 6, 2014, Citizens Telecommunications Company of Minnesota, LLC (Citizens) filed comments challenging the form and completeness of Lake County's Petition. On February 11, 2015 Lake County filed a response to the comments of Citizens. On February 23, 2015, the Commission extended the initial comment period, at the request of the Department of Commerce to March 16, 2015. Reply comments are due March 26, 2015.

II. RURAL BROADBAND EXPERIMENTS ORDER

On July 14, 2014, the Federal Communications Commission (FCC) issued a Report and Order and Further Notice of Proposed Rulemaking¹ in which it announced its intent to use Connect America funding, on a limited scale, for rural broadband experiments (RBEs) that would deploy “new, robust broadband to consumers.”² To that end, the FCC adopted a ten-year \$100 million annual budget and established a methodology for selecting projects among formal applications from carriers that would deploy broadband and voice services in selected census blocks in price cap areas. The FCC received 181 applications from entities seeking nearly \$885 million over the ten-year term for projects in all 50 states and one territory.³

On December 5, 2014, the FCC issued a public notice, announcing that Lake County was included among the provisionally selected bidders and would be eligible, subject to a post selection review process, to receive \$3,499,965.00 for use in 847 Minnesota census blocks.⁴

While the FCC did not require that entities be designated as ETCs at the time they submitted their proposals for funding, it did require that such entities obtain ETC designation within 90 days of the public notice announcing the winning bidders.⁵ The FCC did not establish

¹ *In the Matter of the Connect America Fund*, WC Docket 10-90, and 14-58, FCC-14-98, [Report and Order and Further Notice of Proposed Rulemaking](#), 29 FCC Rcd 8769, July 14, 2014 (*Rural Broadband Experiments Order*).

² *Id.* at ¶ 1.

³ *In the Matter of the Connect America Fund*, WC Docket 10-90, 14-58 and 14-192, [FCC 14-190, Report and Order](#), 29 FCC Rcd 15644, December 18, 2014, (*FCC 14-190 Report and Order*) at ¶ 12.

⁴ *Wireline Competition Bureau Announces Entities Provisionally Selected for Rural Broadband Experiments*, WC Docket No. 10-90, [Public Notice, DA-14-1772](#), and [Attachment A Provisionally Selected Bidders, DA-14-1772](#), December 5, 2014.

⁵ *Rural Broadband Experiments Order* at ¶ 22. The FCC also stated that a waiver of the 90-day deadline may be appropriate if a winning bidder is able to demonstrate that it has engaged in good faith to obtain ETC designation, but has not received approval within the 90-day timeframe (*Id.* (citations omitted)) and that “[a] waiver of the 90-day deadline would be appropriate if, for example, an entity has an ETC

additional rules to govern the ETC designation process solely for the purpose of designating entities to receive Rural Broadband Experiment Funding.

III. APPLICABLE LAW

47 U.S.C. §153 (51) specifies that a telecommunications carrier “shall be treated as a common carrier under [the Telecommunications Act] *only* to the extent it is engaged in providing *telecommunications services*.” (emphasis added.)

47 U.S.C. §153 (51) defines the term “telecommunications carrier” as a “provider of *telecommunications services*.”⁶ (emphasis added.)

47 U.S.C. § 153 (53) defines the term ‘telecommunications service’ as the offering of *telecommunications* for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.”⁷

47 U.S.C. § 153 (50) defines “telecommunications” as the “transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.”⁸

47 U.S.C. § 214 (e) (2) provides that a State commission shall ... designate a common carrier⁹ that meets the requirements of [§ 214 (e)] (1) as an eligible telecommunications carrier for a service area designated by the State commission.... consistent with the public interest, convenience, and necessity....”

application pending with a state, and the state’s next meeting at which it would consider the ETC application will occur after the 90-day window. *Id.* at fn. 52. On February 21, 2015, Lake County filed a petition seeking waiver in WC Dockets 10-90 and 14-259, [Petition of Lake County for Waiver of ETC Designation Deadline For Rural Broadband Experiments.](#)

⁶ 47 C.F.R. 54.5 states that a “‘telecommunications carrier’ is any provider of telecommunications services A telecommunications carrier shall be treated as a common carrier under the Act only to the extent that it is engaged in providing telecommunications services.... This definition includes...to the extent they are acting as telecommunications carriers, companies that provide both telecommunications and information services....”

⁷ 47 C.F.R. 54.5 states that “Telecommunications service” is the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

⁸ 47 C.F.R. 54.5 states, “Telecommunications” is the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

⁹ 47 U.S.C. § 214 (e) (2) states that the term “common carrier” or “carrier” “means any person engaged as a common carrier for hire in... communication by wire....”

47 U.S.C. § 214 (e) (1) states that a “common carrier designated as an eligible telecommunications carrier” must “offer the services that are supported by Federal universal service support mechanisms under section 254 (c) of this title” and “advertise the availability of such services.”

47 U.S.C. § 254 (c) defines universal service as the “evolving level of *telecommunications services* that the [FCC] shall establish periodically” “that are supported by Federal universal service support mechanisms.” (emphasis added.)

FCC Rule, 47 C.F.R. 54.5 defines “Eligible telecommunications carrier” to mean “a carrier designated as such under [47 C.F.R. 54.201].

FCC Rule 47 C.F.R. 54.201 (b) states that a state commission “shall ...upon request designate a common carrier that meets the requirements of paragraph (d) of this section as an eligible telecommunications carrier for a service area designated by the state commission.”

FCC Rule 47 C.F.R. 54.201 (d) states that a “common carrier designated as an eligible telecommunications carrier under this section” ... shall, throughout the service area for which the designation is received (1) Offer the services that are supported by federal universal service support mechanisms ...and (2) Advertise the availability of such services and the charges therefore using media of general distribution.”

FCC Rule 47 C.F.R. 54.101 (a), defines the supported services that must be offered by eligible telecommunications carriers, and states:

(a) *Services designated for support.* Voice Telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part.

FCC Rule 47 C.F.R. 54.202 (a) sets forth “Additional requirements for Commission [FCC] designation of eligible telecommunications carriers.” Since 2005, the Commission has applied these provisions of 47 C.F.R. 54.202 as adapted, to petitions for ETC status filed in Minnesota.¹⁰ These specific requirements for designation of eligible telecommunications carriers, include:

¹⁰ *In the Matter of a Commission Investigation to Consider Adopting the Federal Communications Commission's Standards for Designating Eligible Telecommunications Carriers*, MPUC Docket No. P-999/M-05-1169, Order Adopting FCC Requirements for Designating Eligible Telecommunications Carriers, As Modified (October 31, 2005) at 9-11.

a) To be designated an eligible telecommunications carrier under section 214(e) (6), any common carrier in its application must:

(1) (i) Certify that it will comply with the service requirements applicable to the support that it receives. (ii) Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area. Each applicant shall estimate the area and population that will be served as a result of the improvements. Except, a common carrier seeking designation as an eligible telecommunications carrier in order to provide supported services only under subpart E of this part does not need to submit such a five-year plan.

(2) Demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

(3) Demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis.

(4) For common carriers seeking designation as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part, demonstrate that it is financially and technically capable of providing the Lifeline service in compliance with subpart E of this part.

(5) For common carriers seeking designation as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part, submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans.

b) Public interest standard. Prior to designating an eligible telecommunications carrier pursuant to section 214(e) (6), the Commission must determine that such designation is in the public interest.

Minnesota Rules 7812.1400 and 7811.1400 address Commission designation of incumbent local exchange carriers and competitive local exchange carriers as ETCs.¹¹

¹¹ Minn. Rule 7812.1400 subp. 2. states that “upon request and consistent with the public interest, convenience, and necessity, the commission shall designate a competitive local exchange carrier (CLEC)

IV. STATEMENT OF ISSUES

- A. Whether Lake County meets the requirements of federal statutes, 47 U.S.C. § 214 (e) (1), 47 U.S.C. § 254 (c), and 47 U.S.C. §153 and an FCC Rule 47 C.F.R. 54. 201 (d), to be a “common carrier” offering a “telecommunications service” supported by Federal universal service support mechanisms.
- B. Whether Lake County has met the applicable requirements for ETC designation set forth in 47 C.F.R. 54.202
- C. Whether designation of Lake County as an ETC is in the public interest.

V. ANALYSIS

- A. Whether Lake County Meets the Requirements Of Federal Statutes, 47 U.S.C. § 214 (e) (1), 47 U.S.C. § 254 (c), and 47 U.S.C. §153 and an FCC Rule, 47 C.F.R. 54. 201 (d), To Be a “Common Carrier” Offering A Telecommunications Service” Supported by Federal Universal Service Support Mechanisms.**

Congress has delegated to the Minnesota Public Utilities Commission (Commission) the authority to designate ETCs in Minnesota who qualify for that status under federal law, including 47 U.S.C. §§ 214(e), 153 (51), and 254 (c) and 47 C.F.R §54.201.¹² Under federal law, the Commission shall designate an applicant an ETC if:

as an ETC ... if the CLEC qualifies as an ETC under part 7812.0100, subpart 15. A request for designation as an ETC ... must be filed and decided according to the requirements of subparts 3 to 13. Minn. Rule 7812.0100 subp. 15 states that eligible telecommunications carrier “means a *local service provider* designated by the commission as eligible to receive federal universal service support in accordance with 47 U.S.C. §] 254, and relevant federal regulations.” (emphasis added).

Minn. Rule 7812.0100 subp. 34 states that a “local service provider” is “a telephone company or telecommunications carrier providing *local service* in Minnesota pursuant to a certificate of authority granted by the commission. Local service provider includes both local exchange carriers and competitive local exchange carriers.”

Minn. Rule 7812.0100 subp. 33 states that “Local service” means “dial tone, access to the public switched network, and any related services provided in conjunction with dial tone and access, including services that may be required under part 7812.0600.” [basic service]

¹² In addition, Minn. Rules 7811.1400 and 7812.1400 are applicable to the designation of competitive local exchange carriers and incumbent local exchange carriers as ETCs, however, they can be waived by the Commission, and do not preclude the Commission from designating an applicant other than a CLEC

- (1) The applicant meets the requirements of federal statutes, including:
- 47 U.S.C. § 214 (e) (1) and (2), which require a State commission to designate, as an eligible telecommunications carrier, a *common carrier* that offers a service supported under 47 U.S.C. § 254 (c);
 - 47 U.S.C. §153 (51) which specifies that a telecommunications carrier is a *common carrier only* to the extent it provides *telecommunications services*;
 - 47 U.S.C. § 254 (c) which specifies that the supported services are *telecommunications services*;
 - FCC Rule 47 C.F.R. 54.201 (b) and (d) which requires the Commission to designate a *common carrier* only if it offers a service supported under 47 U.S.C. § 254(c).
- (2) The Commission finds that the ETC designation is consistent with the public interest, convenience, and necessity....” 47 U.S.C. § 214 (e) (2).

1. Common Carrier

47 U.S.C. § 214 (e) (1) and (2), and FCC Rule 47 C.F.R. 54.201 (b) and (d) require a State commission to designate, as an eligible telecommunications carrier, a *common carrier* that offers a service supported under 47 U.S.C. § 254 (c). 47 U.S.C. §153 (51) specifies that a telecommunications carrier is a *common carrier* only to the extent it provides telecommunications services.

Lake County’s Petition does not indicate that it is a common carrier; instead, it explains that Lake County’s customers obtain access to the Public Switched Telephone Network through a certificated CLEC, Lake Communications¹³ which is “Lake County’s selected vendor for this

or ILEC as an ETC. Pursuant to Minn. Rule 7829.3200, the Commission may waive enforcement of a rule if enforcement of the rule would impose an excessive burden upon the applicant or others affected by the rule; granting the variance would not adversely affect the public interest; and granting the variance would not conflict with standards imposed by law.

¹³ Since 2011, Lake Communications has been certified as a competitive local exchange carrier (CLEC) to provide resold local exchange service and interexchange service in Minnesota. *In the Matter of the*

function” and that “Lake Communications provides Interconnected VoIP service as defined by 47 C.F.R. 9.3¹⁴ over Lake County’s fiber optic network.”¹⁵

In its *Tech Transitions Order*¹⁶ the FCC addressed the role of ETC designation in situations where there is a multi-stakeholder group working together to bring broadband-capable infrastructure to unserved communities. The FCC contemplated:

participation in the Connect America Phase II experiment from a wide variety of entities, including partnerships or consortia of entities that may include service providers, vendors, governmental agencies, and others. Indeed, in other contexts, we have recognized the value of consortia bulk purchasing in driving down service rates, increasing bandwidth, and reducing administrative overhead.¹⁷

The FCC explained that, where there is a consortia of entities working together to bring broadband-capable infrastructure to unserved communities, only one entity in the group, partnership or consortia needs to obtain ETC designation. The FCC said that the ETC “could be a competitive local exchange carrier that offers the telecommunications services eligible for

Application of Lake Communications to Provide Resold Local Exchange Service and Interexchange Service, Docket No. P-6869/NA-11-581, Order Granting Authority, September 27, 2011.

¹⁴ 47 C.F.R. 9.3 defines “Interconnected VoIP” service as a service that “ (1) Enables real-time, two-way voice communications; (2) Requires a broadband connection from the user’s location; (3) Requires Internet protocol-compatible customer premises equipment (CPE); and (4) Permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

¹⁵ Petition at 2.

¹⁶*Technology Transitions Order* at ¶¶ 117-118. (citations omitted).(The FCC explained that “entities selected to receive funding in an experiment must obtain ETC designation” and required ETC status to be obtained before funding is disbursed. The FCC expressly declined to adopt the suggestion of certain parties that it either forbear from ETC designation requirements, or preempt States from issuing ETC designations.)

¹⁷ *Technology Transitions Order* at ¶ 121 (citing *Healthcare Connect Fund Order*, 27 FCC Rcd at 16702 at ¶ 54).

support pursuant to section 254(c)(1) of the Act” in partnership with another entity that constructs and operates the broadband-capable network.¹⁸

Other than the Petition, which states that Lake Communications is a “vendor” to Lake County, Lake County has not provided to the Commission any document that details its relationship with Lake Communications, or otherwise provides information upon which the Commission could rely to make a finding that Lake County is a “common carrier.” The Department recommends that Lake County provide complete information regarding its relationship with Lake Communications, to demonstrate, and to enable the Commission to determine, that Lake County has satisfied the “common carrier” requirement of 47 U.S.C. § 214 (e) (1) and (2), and FCC Rule 47 C.F.R. 54.201 (b) and (d).

2. Telecommunications Service

47 U.S.C. § 214 (e) (1), 47 C.F.R. 54.201 (b) and (d) and 47 C.F.R. 54.101(a) require that an ETC must “offer the services that are supported by Federal universal service support mechanisms under section 254 (c) of this title,” which are defined in section 254 (c) exclusively to be “telecommunications services.” 47 U.S.C. § 153 (53) defines the term ‘telecommunications service’ as the offering of *telecommunications* for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.” 47 U.S.C. §153 (51) specifies that a telecommunications carrier is a common carrier *only* to the extent it provides *telecommunications services*.¹⁹

¹⁸ *Id.* at ¶ 121-122.

¹⁹ If an offering meets the definition of telecommunications service, then the service is also necessarily a common carrier service. *See Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 at 9178, para. 785 (1997) *rev’d in part on other grounds Texas*

Lake County's Petition does not identify a telecommunication service supported under 47 U.S.C. § 254 (c) that Lake County offers directly to the public for a fee or to such classes of users as to be effectively available directly to the public, regardless of the facilities used. The Petition states only that Lake Communications provides a fixed interconnected VoIP telephony service, that "Courts have determined that Interconnected VoIP services are information services... not subject to state regulation,"²⁰ and that "litigation on this topic is almost certain." The Petition identifies no other telecommunication service offered or to be offered.²¹

Office of Public Utility Counsel v. FCC, 183 F.3d 393 (5th Cir. 1999) (*Universal Service First Report and Order*) ("We find that the definition of 'telecommunications services' in which the phrase 'directly to the public' appears is intended to encompass only telecommunications provided on a common carrier basis."); *U.S. Telecom Ass'n v. FCC*, 295 F.3d at 1328-29 (noting that telecommunications carriers are limited to common carriers); *Cable & Wireless, PLC*, Order, 12 FCC Rcd 8516, 8521, para. 13 (1997) ("[T]he definition of telecommunications services is intended to clarify that telecommunications services are common carrier services."). The Department notes that 47 C.F.R. 54.101 (a) and (b) also requires that the ETC must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers. Lake County states that it will provide voice telephony service on a common carrier basis throughout its requested service area through an arrangement with its selected "vendor", Lake Communications, Inc. (Lake Communications). Lake Communications will provide voice grade access to the PSTN, flat-rated unlimited local service, access to 911 and E911, and toll limitation at no charge for qualifying low-income consumers.

²⁰ *Id.* Lake County also states on page 4 of the Petition, that "Lake Communications is subject to and complies with the Commission's Rules pertaining to service quality and consumer protection," and notes that "Lake Communications' tariff, as well as the Commission's service quality rules by which Lake Communications is bound will apply throughout the Service Area and assure a high level of service quality and consumer protection." Lake County does not explain specifically how the provisions in Lake Communications' tariff are applicable to the interconnected VoIP offering that Lake County intends to offer pursuant to its arrangement with Lake Communications. Given that Lake County has stated that Interconnected VoIP voice telephony services are not subject to the Commission's jurisdiction, the Department is unclear what reassurance these statements are intended to provide.

²¹ The Petition also states that Lake County has facilities to be used by Lake County to provide service. These facilities are not themselves telecommunications service, but rather are "telecommunications equipment." 47 U.S.C. § 153 (52) presently defines the term "telecommunications equipment" to mean

If Lake County’s characterization of its telephony service is accurate, such that it offers only “information services,” then Lake County has failed to demonstrate, as is required for ETC status, that it offers a “telecommunications service” supported under 47 U.S.C. § 254 (c), and the Petition would need to be denied. This is because information services, by definition, are not telecommunications services. A telecommunications service involves the offer and sale to the public of telecommunications (i.e. the offer and sale of transmission²²) while an “information service” includes electronic publishing and “the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information *via* telecommunications”²³.

The Department, however, disagrees with Lake County’s characterization of the interconnected VoIP telephony service and the state of the law regarding the Commission’s jurisdiction over that voice telephony service. As the Commission correctly recognized in its November 18, 2014 Order in the *Charter case*, Docket No P5615/C-14-383²⁴ both the FCC and the highest jurisdictional court to consider the issue, the United States Court of Appeals for the Eighth Circuit, have concluded that the FCC has *not* determined “interconnected VoIP service”

“equipment, other than customer premises equipment *used by a carrier to provide telecommunications services*, and includes software integral to such equipment (including upgrades).”

²² 47 U.S.C. § 153 (53).

²³ 7 U.S.C. § 153 (24). Information service “does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.”

²⁴ *In the Matter of the Complaint by the Minnesota Department of Commerce Against the Charter Affiliates Regarding Transfer of Customers*, Docket No. P-6716, 5615/C-14-383 (*Charter case*).

to be an “informational service”²⁵ nor preempted state regulation of interconnected VoIP services.²⁶

That the FCC has not classified fixed interconnected VoIP as an information service is evident from several of its recent rulings, the earliest of which has been affirmed on appeal. First, in the FCC’s *USF/ICC CAF Order*,²⁷ the FCC reiterated that an ETC needed to provide *at least one* telecommunications service to qualify for USF support; however, the FCC stated, an ETC did not need to use USF support *exclusively* to provide telecommunications services;²⁸ that is, if the entity qualified as an ETC by offering a telecommunications service, it also could use the USF support to provide broadband [defined there as a non-telecommunications service²⁹] and

²⁵ 47 U.S.C. § 153 (53) defines the term ‘telecommunications service’ as the offering of telecommunications for a fee directly to the public, 47 U.S.C. § 153 (50) defines “telecommunications” as the “transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.” 47 U.S.C. § 153 (24) defines the term “information service” as “the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

²⁶ *Charter case*, Order Requiring Answer to Complaint and Setting Time Lines (Issued: November 18, 2014) at 4-5. (Further, the Commission correctly observed that, “While the FCC did state in its preemption order on nomadic VoIP that it would preempt state regulation of “other types of IP-enabled services having basic characteristics similar to” nomadic VoIP, the agency assured the court, in response to a challenge by the New York Public Service Commission, that that statement did not mean that it intended to preempt state regulation of fixed VoIP services.”)

²⁷ *Connect America Fund et al.*; WC Docket Nos. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) ([USF/ICC CAF Order](#)) *aff’d sub nom.*, *In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014).

²⁸ *USF/ICC CAF Order* at ¶¶ 60 to 73.

²⁹ It is anticipated that the FCC will modify its rules and define broadband internet access service (BIAS) as telecommunications and as a telecommunications service in its pending “Net Neutrality” proceeding, *In the Matter of Protecting and Promoting the Open Internet*, GN Docket No. 14-28, Report and Order on Remand, Declaratory Ruling and Order, FCC 15-24, Released: March 12, 2015 ([Net Neutrality Order](#))

As of the filing of these Comments, the *Net Neutrality Order* has been publicly released but has not been published in the Federal Register, and therefore, is not effective and has no effective date. *See* FCC Rules 1.103 and 1.4 and 47 U.S.C. § 402. The Department recommends that Lake Communications provide

mobility.³⁰ Part of the FCC’s rationale for the change was its observation that broadband deployment was not proceeding in a reasonable and timely fashion³¹ “to ensure that all Americans are served by networks that support high-speed Internet access—in addition to basic voice service—where they live, work, and travel.”³² As legal authority for its new policy, the FCC first acknowledged that:

Under section 254, we have express statutory authority to support *telecommunications services* that we have designated as eligible for universal service support. Section 254(c)(1) of the Act defines “[u]niversal service” as “an evolving level of *telecommunications services* that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services.”³³

The FCC observed, however, that nothing in the Telecommunications Act prevented it from achieving its additional goals of broadband deployment by “condition[ing] the receipt of universal service support on the deployment of broadband networks, both fixed and mobile...”³⁴ Further, in the face of advances in technology, the FCC revised the list of “functionalities” that it had previously required to be part of supported telecommunications services, named this

additional information and address the impact, if any, of the *Net Neutrality Order* on its Petition in this Docket.

³⁰ *USF/ICC CAF Order* at fn. 16, ¶¶ 20, 28.

³¹ The FCC found that “broadband deployment to all Americans has not been reasonable and timely” and observed in its most recent broadband deployment report that “too many Americans remain unable to fully participate in our economy and society because they lack broadband.” This finding triggers our duty under section 706(b) to ‘remov[e] barriers to infrastructure investment’ and ‘promot[e] competition in the telecommunications market’ in order to accelerate broadband deployment throughout the Nation.” *Id.* at ¶ 66 (citations omitted).

³² *Id.* at ¶ 5 (emphasis added); see also ¶¶ 48-59 (setting out revised agency goals).

³³ *Id.* at ¶ 62 (emphasis added).

³⁴ *Id.* at ¶ 60.

revised set of functions “voice telephony,” and explained that the new functions³⁵ were appropriate because they are “technologically neutral.”³⁶

Important for the instant Lake County Petition, the FCC determined that the provision of standalone voice telephony--using any technology, including VoIP--can be supported with USF subsidies.³⁷ From this determination, that stand alone voice telephony³⁸ is sufficient - by itself- to support USF funding and a carrier’s ETC status, it is evident that “voice telephony” such as interconnected VoIP, must be a “telecommunications service” supported by § 254 universal service supports.

Further proof that it is correct to conclude as a legal matter, that the VoIP “voice telephony” offered by ETCs must be a telecommunications service, is evident for two additional statutory reasons. First, under §214, only eligible *telecommunications carriers* may receive USF support, and §153 (51) defines telecommunications carriers as providers of *telecommunications services.*” Second, under §214 (e), *only common carriers* designated as ETCs can receive federal universal service support³⁹ and §153 (51) states that a carrier can be “a *common carrier* ... *only* to the extent it is engaged in providing *telecommunications services.*”

³⁵ The new functions are “voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; toll limitation to qualifying low-income consumers; and access to the emergency services 911 and enhanced 911 services to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems.” It eliminated prior functions such as: “dual tone multi-frequency (DTMF) signaling or its functional equivalent; single-party service or its functional equivalent; access to operator services; access to interexchange service; and access to directory assistance. *Id.* at ¶ 76, 78.

³⁶ *Id.* at ¶¶ 76 to 79. Further, the FCC stated in the ICC/USF CAF Order that, “[w]e note that the Commission has not broadly determined whether VoIP services are “telecommunications services” or “information services”.... ” *Id.* at ¶ 1387.

³⁷ *Id.* at ¶¶24, 80, fn. 117.

³⁸ The FCC specifies in the *USF/ICC CAF Order* that the standalone voice telephony can be VoIP.

³⁹ 47 U.S.C. §214(e) (1): “A common carrier designated as an eligible telecommunications carrier...shall be eligible to receive universal service support....”

On appeal, the 10th Circuit U.S. Court of Appeals affirmed that this is the correct lesson of the *ICC/USF CAF Order* and cautioned that it could be reversible error for a state commission to designate as an ETC, an entity that is not a telecommunications carrier providing telecommunications services.⁴⁰ There, petitioners challenging the *USF/ICC CAF Order* claimed that by identifying new functions that constitute the USF-supported services, and renaming those functions “voice telephony” service,” the FCC had erroneously allowed USF funds to be used for a non-telecommunications service.⁴¹ The 10th Circuit disagreed, stating:

The FCC, acting under the express authority granted to it under § 254(c) (1), chose in the Order “to simplify how [it] describe[d],” the types of *telecommunications services* that are encompassed by “universal service” and thus “supported by Federal universal service support mechanisms,” 47 U.S.C. § 254(c) (1).⁴²

...

[Petitioners] contend that the FCC has used this new, simpler classification to provide funding to what they claim are entities *that do not provide telecommunications services*.

The fact remains, however, that in order to obtain USF funds, a provider must be designated ...as an “eligible telecommunications carrier” under 47 U.S.C. § 214 (e). *See* 47 U.S.C. § 254 (e) (“only an eligible telecommunications carrier designated under section 214(e) ... shall be eligible to receive specific Federal universal service support.”) And, under the existing statutory framework, only “common carriers,” defined as “any person engaged as a common carrier for hire” 47 U.S.C. § 153 (10), are eligible to be designated as “eligible telecommunications carriers,” 47 U.S.C. § 214 (e). Thus, under the current statutory regime, only ETCs can receive USF funds that could be used for VoIP support. Consequently, there is no imminent possibility that broadband-only providers [i.e. non-telecommunications service providers] will receive USF support under the FCC’s Order, since they cannot be designated as “eligible telecommunications carriers.”

As a result, we agree with the FCC that the petitioners’ argument “will not be ripe for judicial review unless and until a state commission ... designates ... an

⁴⁰ *In re FCC*, 11-161, 753 F.3d 1015 (10th Cir. 2014).

⁴¹ 753 F.3d 1015, 1048.

⁴² *Id.* (emphasis added) (citations to record omitted).

*entity” that is not a telecommunications carrier as “an ‘eligible telecommunications carrier’” under § 214(e).*⁴³

Thus, under the FCC’s *USF/ICC CAF Order* and the affirming decision of the 10th Circuit, it is evident that the FCC and 10th Circuit Court of Appeals must consider voice telephony, (including interconnected VoIP) to be telecommunications service, the provision of which is necessary for a common carrier to be designated as an ETC and receive USF support.

Second, FCC statements with respect to the rural broadband experiments program suggests that Lake county’s characterization of interconnected VoIP as an information service is inaccurate: The FCC’s *Rural Broadband Experiments Order*⁴⁴ and *Tech Transitions Order*⁴⁵ require the successful rural experiment bidder to become an ETC prior to being funded, and ETCs must provide a section 254(c) (1) supported service, which Congress plainly limits to entities providing a “*telecommunications service.*” Because, the *Technology Transitions Order* states that it is sufficient for a successful rural experiment applicant to offer “voice telephony service...as part of the experiment,”⁴⁶ the only conclusion that can be drawn is that the FCC contemplates that “voice telephony service,” such as a fixed interconnected VoIP service,

⁴³ *Id.* at 1048-49 (emphasis added).

⁴⁴ *Rural Broadband Experiments Order*, ¶ 21-22, 25 (citing *Technology Transitions et al.*, GN Docket No. 13-5 et al., Order et al., FCC 14-5, 29 FCC Rcd 1433, 1473 (January 31, 2014) (*Tech Transitions Order*) at ¶ 113, 116). (While the entities needed not to have been ETCs when they submitted their funding proposals through the rural broadband experiments, “they must obtain ETC designation after being identified as winning bidders for the funding award.”)

⁴⁵ *Technology Transitions Order* at ¶¶ 117-118 (citations omitted) (The FCC explained that “entities selected to receive funding in an experiment must obtain ETC designation” and required ETC status to be obtained before funding is disbursed. The FCC expressly declined to adopt the suggestion of certain parties that it either forbear from ETC designation requirements, or preempt States from issuing ETC designations.)

⁴⁶ *Id.* (citing *USF/ICC Transformation Order*, 26 FCC Rcd at 17694, para. 84; see also 47 U.S.C. §§ 214(e) (1), 254(b) (3); 47 C.F.R. 54.101).

satisfies the requirement that ETCs provide a section 254(c) (1) supported “telecommunications service.”

A third indication that the FCC intends the provision of fixed interconnected VoIP to satisfy the requirement that ETCs provide a section 254(c)(1) supported “telecommunications service” is evident in the FCC’s discussion in the *Technology Transitions Order* of situations such as Lake County’s, where multiple entities are involved in putting together a project. The FCC there said that, where there is a consortia of entities working together to bring broadband-capable infrastructure to unserved communities, “we *require* that the ETC be legally and financially responsible for providing *the section 254(c) (1) supported telecommunications service.*”⁴⁷ The FCC concluded that this requirement is met if one entity in the group, partnership or consortia obtains ETC designation. The FCC said that the ETC “could be a competitive local exchange carrier that offers *the telecommunications services eligible for support pursuant to section 254(c)(1) of the Act*” in partnership with another entity that constructs and operates the broadband-capable network.⁴⁸ The FCC further specified in the *Technology Transitions Order* that the ETC “responsible for providing the *section 254(c)(1) supported telecommunications service*” must also “serve as the point of contact for the... relevant State... government...[and] be responsible for submitting required...forms and certifications to the...relevant State...government[], as appropriate...for members of the group.”⁴⁹ The Department believes this language regarding the rural broadband experiment program in the *Technology Transitions Order*, which requires the consortia to offer “section 254(c) (1) supported telecommunications services” and be responsible to State government,

⁴⁷ *Id.* at ¶ 122.

⁴⁸ *Id.* at ¶ 121-122.

⁴⁹ *Id.* at ¶ 122 (citing *USF/ICC Transformation Order*, 26 FCC Rcd at 16769-70 at ¶ 206).

cannot be squared with Lake County's present position that, if granted ETC status, its voice telephony service is an information service and that Lake County would not be subject to State government regulation.

In a fourth and even more recent FCC order, the *FCC 14-190 Report and Order*,⁵⁰ the FCC further explained that ETC status, and the requirement that ETCs provide section 254(c)(1) supported *telecommunications service*, is important, not only to the Rural Broadband Experiments, but because it is central to the FCC's plans to transition rural areas to advanced networks. This is because, under the *14-190 Report and Order*, the grant of ETC status to one provider in a census block will, in the future, relieve other subsidized telecommunications providers of the requirement to offer *telecommunications service* throughout its service territory. That is, in its *FCC 14-190 Report and Order*, the FCC decided to forbear from enforcing a federal high-cost requirement (under which price cap carriers must offer voice telephony service throughout their service areas pursuant to section 214(e) (1) (A)) in census blocks where a subsidized competitor – i.e., another ETC – receives federal high-cost support to deploy modern networks capable of providing voice and broadband to fixed locations.⁵¹ Prior to issuance of the *FCC 14-190 Report and Order*, the FCC had interpreted section 214(e) of the Act to require that an ETC offer voice telephony service throughout its designated service area.⁵² The FCC stated

⁵⁰ The *FCC 14-190 Report and Order* includes revisions to Connect America Phase II, adjustments to the planned model-based support to price cap carriers, where Phase II support will be available, near-term reforms for rate-of-return carriers, and steps to strengthen the uniform national framework for accountability established in the *USF/ICC Transformation Order*.

⁵¹ *FCC 14-190 Report and Order* at ¶ 51.

⁵² *Id.* at ¶ 54 (citing *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 20 FCC Rcd 6371, 6380 at ¶ 21 (2005)).

that, following the Wireline Bureau’s adoption of the Connect America Cost Model (CAM),⁵³ however, it can determine, on a more granular level, census blocks where there is another ETC with an *obligation to offer reasonably comparable voice telephony service*.⁵⁴ ETCs receiving Connect America support will be required to offer *reasonably comparable voice* and broadband services in their funded high-cost census blocks at rates that are reasonably comparable to urban areas. The FCC reasoned⁵⁵ that there is no need to require a price cap carrier that declines the offer of support to offer voice telephony throughout those census blocks where another ETC is subject to that reasonable comparability requirement.⁵⁶ Accordingly, the FCC adopted an amendment to 47 C.F.R. 54.201 stating:

(d) A common carrier designated as an eligible telecommunications carrier under this section *shall be eligible to receive universal service support in accordance with section 254 of the Act* and, except as described in paragraph (d)(3) of this section, shall throughout the service area for which the designation is received:
* * * * *

⁵³ Pursuant to its delegated authority, the Bureau adopted a forward-looking Connect America Cost Model (CAM) used to determine the offer of model-based support to price cap carriers. See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, 28 FCC Rcd 5301 (Wireline Comp. Bur. 2013) (*CAM Platform Order*); *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order, 29 FCC Rcd 3964 (Wireline Comp. Bur. 2014) (*CAM Inputs Order*).

⁵⁴ *Id.* at ¶ 54.

⁵⁵ *Id.* at ¶ 57. In the first month that support is disbursed to another ETC that is required to serve particular census blocks with voice and broadband service to fixed locations, incumbent price cap carriers not receiving such support will be immediately relieved of their federal high-cost ETC obligation to offer voice telephony in those specific census blocks. *Id.* at ¶ 69.

⁵⁶ The FCC observed that “if price cap carriers were to exit these high cost areas, in areas where there is ... another ETC receiving federal high-cost support to deploy ... voice and broadband to fixed locations, there will be at least one provider in that area offering a voice telephony service that is reasonably comparable to service available in urban areas. Because consumers in these areas will have at least one other option for fixed voice telephony service at reasonable rates, there is no need to require price cap carriers to continue to offer such services as a federal ETC obligation.” *Id.* at ¶ 63. The FCC observed that this “decision to grant forbearance in these limited circumstances does not disturb existing state carrier of last resort obligations.” *Id.* at ¶ 64. The FCC “emphasize[d] that it d[id] not preempt price cap carriers’ obligation to continue to comply with any state requirements, including carrier of last resort obligations....” *Id.* at ¶ 67. And “[p]rice cap carriers subject to this limited forbearance must continue to satisfy all Lifeline ETC obligations.” *Id.* at ¶ 70.

(3) Exception. Price cap carriers that serve census blocks that are identified by the forward-looking cost model as low-cost, census blocks that are served by an unsubsidized competitor as defined in § 54.5 meeting the requisite public interest obligations specified in § 54.309, *or census blocks where a subsidized competitor is receiving federal high-cost support to deploy modern networks capable of providing voice and broadband to fixed locations*, are not required to comply with paragraphs (d)(1) and (2) of this section in these specific geographic areas. Such price cap carriers remain obligated to maintain existing voice telephony service in these specific geographic areas unless and until a discontinuance is granted pursuant to § 63.71 of this chapter.⁵⁷

The amended rule became effective on February 26, 2015.⁵⁸ It is reasonable to infer from the *FCC 14-190 Report and Order* that the FCC, in its efforts to transition rural areas to advanced networks, seeks in the future not only to avoid subsidizing redundant comparable networks in a single census block, but also considers voice telephony such as fixed interconnected VoIP service to be eligible to receive, “universal service support in accordance with section 254 of the Act” and, therefore to constitute a telecommunications service.

The Department is unaware of any provision of the *Rural Broadband Experiments Order*, *Tech Transitions Order*, or *FCC 14-190 Report and Order* to support the apparent positions of Lake County that ETC status can be granted and funded, but the Lake County project need not include a common carrier, nor offer telecommunications services (but only information services), and Lake County is not subject to State regulation other than to be granted ETC status.

Finally, the Commission may wish to consider that, from a regulatory perspective, fixed interconnected VoIP telephony is functionally indistinguishable to end-users from competing voice services, and, accordingly should be similarly regulated in Minnesota. Minnesota statutes make no distinction among technologies used to make ordinary phone calls; the service is simply “local service” that, under Minn. Stat. § 237.035(e), is subject to certain requirements of Chapter

⁵⁷ *FCC 14-190 Report and Order* at p. 83, Appendix A, Ordering ¶ 3 (emphasis added).

⁵⁸ *FCC 14-190 Report and Order* at ¶ 222.

237. Fixed interconnected VoIP providers interface with and transmit calls over the very same network facilities as time-division multiplexed (TDM) calls. A focus on the functional nature of fixed interconnected VoIP services—on the functions from the end user’s viewpoint—compels classification of such services as “telecommunications services,” and is consistent with the “functional” methodology used by the FCC to classify services.⁵⁹

The FCC has explained that the “functional approach” reflects Congressional intent: “Congress direct[ed] that the classification of a provider should not depend on the type of facilities used ... Its classification depends rather on the nature of the service being offered to customers.”⁶⁰ The FCC has observed that “a telecommunications service is a telecommunications service regardless of whether it is provided using wireline, wireless, cable satellite, or some other infrastructure”⁶¹ and the nature of the service in turn “depends on *the functional nature of the end-user offering*.”⁶² “Indeed, the opening paragraph of the *ICC/USF CAF Order* declares that the FCC’s stated purpose for USF reform is to “use measured but firm glide paths to provide industry with certainty and sufficient time to adapt to a changed regulatory landscape, and establish a framework to distribute universal service funding in the most efficient and technologically neutral manner possible.”

⁵⁹ The FCC’s “functional regulatory approach is embodied in the Act’s classification of distinct service categories, such as ‘information services,’ ‘cable service,’ and ‘telecommunications services.’” *See, e.g., Appropriate Framework for Broadband Access to Internet over Wireline Facilities Universal Service Obligations of Broadband Providers*, Notice of Proposed Rulemaking, CC Docket No.02-33, et al., 17 FCC Rcd 3019 at n.10 (2002); *See also* 17 FCC Rcd at 3023 and ¶ 7 (“We recognize that because these legacy networks have historically been regulated differently, the migration to digital broadband systems may raise different questions for different platforms. We believe that the *statute and our precedent suggest a functional approach*, focusing on the nature of the service provided to consumers, rather than one that focuses on the technical attributes of the underlying architecture.”).

⁶⁰ *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, Report to Congress, 13 FCC Rcd. 11501 (April 10, 1998).

⁶¹ *Id.* at ¶59.

⁶² *Id.* at ¶86.

As discussed above, the Act defines “telecommunications” as “the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.”⁶³ By this definition, packet-switched voice telephony service, like traditional voice communication service, is telecommunication: Users rely on packet-switched voice telephony services to transmit “information of the user’s choosing,” “between or among points specified by the user”, “without change in the form or content” of their phone conversation. Indeed, subscribers would be upset if their statements were vetted or changed by the carrier while delivering their conversations, or if, after dialing the called party’s number, their calls were diverted by the carrier to a number other than the intended called party. The form sent and received is also unchanged: calls begin and end as sound waves on a telephone handset; in between, the sound wave is converted to an electronic wave, and in most calls, the analog electronic waves are converted to digital signals (and packetized⁶⁴) as well as multiplexed with other traffic. The digital signals may be converted to light signals and back to electronic signals, and may be de-multiplexed⁶⁵ before being delivered and converted back to sound waves. These numerous changes in form and protocol for TDM calls do not change the telecommunications service into an information

⁶³ 47 U.S.C. § 153 (50).

⁶⁴ A VoIP telephony provider may fragment a caller’s digital voice packets into multiple pieces. However, such fragmentation does not change the form or content, as the pieces are reassembled before the packet is handed over to the party receiving the message. *See* Internet Protocol, DARPA Internet Program Protocol Specification, RFC 791 (Sept. 1981), <https://tools.ietf.org/html/rfc791>.

⁶⁵ Inverse multiplexers are also sometimes used, for example, to combine a number of ISDN channels together into one high rate circuit, where a higher rate connection than is available from a single ISDN connection is needed. ISDN is a circuit-switched telecommunications network system, which provides access to voice and packet switched networks, designed to allow digital transmission of voice and data over ordinary telephone copper wires, resulting in potentially better voice quality than an analog phone can provide. *See, e.g.*, Newton’s Telecom Dictionary, 21st Ed. (2005).

service.⁶⁶ Real-time VoIP phone conversations do not involve subscriber interaction with stored information, which is a characteristic of an information service.⁶⁷ IP technology in the network is used for *transmission* of a voice signal and, despite IP technology in the network, the service remains functionally equivalent to traditional phone service. VoIP telephony, functionally, is just another voice telecommunications service.

The Department recommends that the Commission:

- (1) Find that Lake County's Petition for ETC status identifies a fixed interconnected VoIP telephony service as the service it provides or will provide to customers if ETC status is granted;
- (2) Find that the offer and provision of that fixed interconnected VoIP telephony service constitutes the offering and provision of a telecommunications service, as is required by 47 U.S.C. §§214(e), 153 (51), and 254 (c) and 47 C.F.R 54.201; and,
- (3) Grant the Petition (conditioned as indicated above on a showing that there is a “common carrier.”)

As an alternative, if the Commission determines that Lake County has a legitimate dispute on whether its VoIP voice telephony service is a telecommunications service and provides no other information showing that it offers and provides or will provide a telecommunications service as the Department recommends, the Commission might choose to

⁶⁶ *In re Independent Data Communications Manufacturers Ass'n, Inc.*, Memorandum Opinion and Order, 10 FCC Rcd 13717, at ¶¶14-16, 22 (1995) (The FCC said (i) communications between the subscriber and the network for call setup or call routing, and (ii) protocol conversions necessitated by the introduction of new technology are not enhanced services; accordingly, the FCC classified frame relay service, a high-speed packet switching service, as a basic telecommunications service under Title II, and rejected the argument that AT&T's bundling of enhanced protocol conversion with basic frame relay service renders the whole service an enhanced service.) More generally, a telecommunications service is not converted to an information service unless the information service is so “inextricably intertwined” into the telecommunications service that it is transformed into a “functionally integrated information service”; a marketing decision to bundle services that can be separable is insufficient to effect the transformation of a telecommunications service into an information service. *See, e.g., Cable & Telecomms. Ass'n v. Brand X Internet Services*, 545 U.S. 967 at 997-98, and 1009, n.4 (Scalia, J., dissenting) (2005) (*Brand X*).

⁶⁷ Although the carrier may use stored data to manage the call, such as by doing a number or address look-up.

resolve this ETC Petition in a manner similar to the resolution of the recent *Midwest Cable* matter, Docket Nos. P6927/PA-14-507 and P6927/NA-14-513,⁶⁸ but only if the Petitioner is amenable and if the Commission believes (Lake County’s characterizations of its interconnected VoIP service and challenge to the Commission’s future jurisdiction notwithstanding) that Lake County’s ETC Petition can be granted on a conditional basis consistent with the requirements of federal law. In the *Midwest Cable* docket, the Commission approved a settlement negotiated between the Department and Midwest Cable Inc. a/k/a Greatland Connections, Inc. and Midwest Cable Phone of Minnesota LLC (collectively Midwest Cable) regarding the regulatory treatment of Midwest Cable’s interconnected VoIP service. The settlement in that case included commitments by Midwest Cable with respect to collection, remittance, and reporting of Telecommunications Access Minnesota (TAM) and Telephone Assistance Plan (TAP), filing of Annual Reports, a cap on standalone residential voice service rates, advance notice of transactions involving the interconnected VoIP customer base, and the availability of the Commission to address consumer complaints. In addition, Midwest Cable committed to abide by the outcome, and all terms, conditions, and obligations that apply to interconnected VoIP service as a result of a Commission decision in the *Charter* case.⁶⁹ In the *Charter* case, as in the instant docket, there was a certificated CLEC that challenged Commission jurisdiction based on an assertion that fixed interconnected VoIP service is not a telecommunications service, and the Department disagreed, observing that, “Minnesota statutes make no distinction among

⁶⁸ *In the Matter of the Midwest Cable Phone of Minnesota, LLC Application for Authority to Provide Telephone Service in the State of Minnesota*, Docket No. P6927/NA-14-507, and *In the Matter of Midwest Cable Phone of Minnesota, LLC Petition for Approval to Transfer Regulated Customers and Assets*, Docket No. P6927/PA-14-513.

⁶⁹ *In the Matter of the Complaint by the Minnesota Department of Commerce Against the Charter Affiliates Regarding the Transfer of Customers*, Docket No. P6716, 5615/C-14-383.

technologies used to make ordinary phone calls.... [The] service is simply “local service” and therefore regulated telephone service subject to certain requirements of Chapter 237.”⁷⁰

The Department believes that, if the Commission determines to order this alternative, then, in addition to the above recommendations regarding “common carrier” status,⁷¹ the commitments made by Midwest Cable in Docket Nos. P6927/PA-14-513 and P6927/NA-14-507, if agreed to by Lake County, would provide some assurance that Lake County will provide voice telephony service with sufficient consumer protection, reporting, and service quality standards, to meet the requirements of ETC designation until Lake County’s jurisdictional challenge could be resolved, in a separate, to-be-opened docket. Such a separate docket would need to address, at minimum, whether Lake County offers a telecommunications service to the public for a fee, and if not, whether section 254 (c) universal service support can be expended on entities who offer solely non-telecommunications services and whether the Commission has any surviving authority over Lake County’s service upon granting the ETC Petition, and, finally, a determination of the effect that answers to these questions will have on Lake County.⁷²

If Lake County agrees to such a voluntary resolution in this ETC matter, and the Commission determines to so proceed, then the Department recommends that the Commission

⁷⁰ *Id.*, [Comments of the Minnesota Department of Commerce](#), January 20, 2014 at 8-9.

⁷¹ See note 20, above (Lake County states that it will provide voice telephony service on a common carrier basis throughout its requested service area through an arrangement with its selected “vendor”, Lake Communications, Inc. (Lake Communications). Lake Communications will provide voice grade access to the PSTN, flat-rated unlimited local service, access to 911 and E911, and toll limitation at no charge for qualifying low-income consumers.) The Commission should also require the conditions Lake County ensure performance of the representations in the Petition of Lake County, including “Lake Communications is subject to and complies with the Commission’s Rules pertaining to service quality and consumer protection,” and “Lake Communications’ tariff, as well as the Commission’s service quality rules by which Lake Communications is bound will apply throughout the Service Area.”

⁷² This docket should not be referred to or the *Charter* complaint case for resolution because there are issues here that go beyond the scope in the *Charter* case.

condition any grant of ETC status on the following commitments by Lake County with respect to the voice telephony service provided on Lake County's behalf by Lake Communications or any successor selected by Lake County to provide voice telephony.

- Lake County shall require that Lake Communications (or any successor selected by Lake County to provide voice telephony) collect, remit and report telecommunications Access Minnesota ("TAM") fees, as described in Minn. Stat. §237.52, with respect to telecommunications services and interconnected VoIP services provided by Lake Communications on behalf of Lake County.
- Lake County shall require that Lake Communications (or any successor selected by Lake County to provide voice telephony) collect, remit and report Telephone Assistance Plan ("TAP") fees, as described in Minn. Stat. § 237.70, with respect to telecommunications services, and interconnected VoIP services provided by Lake Communications on behalf of Lake County.
- Lake County shall require that Lake Communications (or any successor selected by Lake County to provide voice telephony) submit reports described in Minn. Stat. § 237.295, subd. 2, to disclose intrastate operating revenues for telecommunications services, and to include interconnected VoIP service revenues in those reports.
- Lake County shall require that Lake Communications (or any successor selected by Lake County to provide voice telephony) make customers aware that complaints may be filed with the Commission and shall include the Commission's Consumer Affairs Office contact information in an annual notice.
- Lake County shall require that Lake Communications on Lake County's behalf (or any successor selected by Lake County to provide voice telephony) shall offer the TAP credit to qualifying customers of voice service. Lake County will make Minnesota customers aware of the availability of the TAP credit on its website and customer service representatives will be trained to discuss the TAP credit with qualifying customers. An application will be available to download from the Lake County website and will be mailed to customers upon request.
- Lake County shall require that Lake Communications (or any successor selected by Lake County to provided voice telephony) will make available standalone voice-grade service to all customers within its service area on a non-discriminatory basis.
- Lake County agrees that it shall abide by the outcome of a separate Commission investigation, and shall require that Lake Communications (or any successor selected by Lake County to provided voice telephony) shall abide by the outcome of a separate Commission investigation regarding fixed interconnected VoIP service, which separate matter should determine, at minimum, whether Lake

County offers a telecommunications service to the public for a fee, and if not, whether section 254 (c) universal service support can be expended on entities who offer solely non-telecommunications services and whether the Commission has any surviving authority over Lake County's service upon granting the ETC Petition, and, finally, a determination of the effect that answers to these questions will have on Lake County.

B. Whether Lake County meets other requirements of Federal Law.

47 C.F.R. 54.101 (a) requires that an ETC's voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers.

Lake County states that it will provide voice telephony service on a common carrier basis throughout its requested service area through an arrangement with its selected "vendor", Lake Communications, Inc. (Lake Communications). Lake Communications will provide voice grade access to the PSTN, flat-rated unlimited local service, access to 911 and E911, and toll limitation at no charge for qualifying low-income consumers.

With respect to the pricing of Lake County's Standalone Voice Telephony Offering, the FCC has placed price limits on ETCs that receive Rural Broadband Experiment funding. Among the certifications that an applicant for rural broadband experiment support is required to make to the FCC is that it will offer service in supported areas at rates that are reasonably comparable to rates for similar service plans offered by voice and broadband providers in urban areas.⁷³

⁷³ DA 14-1203 *Wireline Competition Bureau Public Notice*, "Wireline Competition Bureau Announces Application Process for Entities Interested in Participating in the Rural Broadband Experiments" August 19, 2014 at ¶ 37.

The Lake County Petition states that “the local exchange services offered to Lake County’s customers for universal service offerings⁷⁴ are within the range of the ILEC’s tariffed rates in the service area,” Lake County has provided a chart comparing Lake Communications’ tariffed residential monthly local exchange rates to those of the incumbent local exchange carriers in whose territory Lake Communications (and Lake County) operate. Lake Communications’ tariffed local residential monthly rate is \$14.25 in CenturyLink QC area and \$13.60 in Citizens area. These rates are within the range of residential rates charged by the incumbents (\$15.96, and \$15.25, respectively).

While the above rates are in the range of incumbent urban and rural local service rates, Lake County’s advertised rate for standalone local voice service is not. Lake County’s website provides a link to the Lake Communications website where it advertises a standalone voice service offering “starting at \$29.99.”⁷⁵ It is not clear to the Department, however, that Lake County, through its vendor, Lake Communications, offers or intends to offer local exchange service at Lake Communications’ tariffed rate. Lake County should be required to clarify the price at which it intends to offer standalone fixed interconnected VoIP service to its customers, as a condition of ETC designation. The Commission may then make a determination if the rates are reasonable comparable.

1. Lake County’s Service Area and Facilities (FCC Rule 47 C.F.R. 54.201 (d) (1)).

47 C.F.R. 54.201 requires Lake County to offer its universal service supported service throughout a designated service area using its own facilities or a combination of its own facilities

⁷⁴ It is unclear to the Department what Lake County means by “for universal service offerings.”

⁷⁵ <http://www.lakeconnections.com/homevoice.php>

and resale of another carrier's services. Lake County describes its requested service area as follows:

The Minnesota exchanges of Duluth, and Silver Bay where Qwest Corporation dba CenturyLink (CenturyLink) is the incumbent local exchange carrier; and Aurora, Babbitt, Ely, Embarrass, Hoyt Lakes, Isabella, Palo, and Two Harbors Minnesota exchanges where Citizens Telecommunications Company of Minnesota, LLC (“Citizens”) is the incumbent local exchange carrier. Unserved areas are also included in the Service Area.⁷⁶

Lake County has included a map illustrating the area throughout which it intends to provide service (Exhibit 1 to the Lake County’s Petition). The requested service area includes the census blocks for which Lake County has been provisionally granted Connect America Funds through the FCC’s Rural Broadband Experiments.

Lake County states that it will provide VoIP voice telephony over its own newly installed fiber-optic facilities, but has not provided a detailed description of the facilities. As a condition of receiving funding for the rural broadband experiments, Lake County was required to provide to the FCC a detailed description of the technology and system design used to deliver voice and broadband, certified by an engineer, for its evaluation. The Department recommends that Lake County provide to the Commission a copy of the engineer-certified description of the technology and system design that will be used to deliver voice and broadband service in Minnesota that it provided to the FCC, as a condition of ETC designation.

2. Lake County’s Intent to Advertise the Supported Services throughout its Requested Service Area (FCC Rule 47 C.F.R. 54.201 (d) (2)).

Lake County notes in its Petition that:

Lake County currently advertises its services through several different channels of general distribution, including newspaper, and direct mail. Lake County will

⁷⁶ Petition of Lake County at 2.

advertise the availability of its universal service offering throughout the Service Area through these same advertising channels.

The Department recommends that the Commission incorporate a condition in its order requiring, as it has for other ETC applicants, that Lake County provide a formal advertising plan, listing the specific media and means through which it intends to advertise the availability of voice telephony and Lifeline and a proposed schedule or anticipated frequency of such advertising within 30 days of the Commission order approving Lake County's Petition. Lake County should also be required to post Lifeline terms and conditions, as well as the terms and conditions applicable to its Voice Telephony service on its website.

3. Certification that Lake County will Comply with Applicable Service Requirements (FCC Rule 47 C.F.R. 54.202(a) (1) (i).

Lake County certifies that it will use all federal high cost support it receives for its intended purpose,⁷⁷ and states that it is “committed to provide service to all customers making a reasonable request for service.”⁷⁸ Lake County certifies that it will: “(a) provide service on a timely basis to requesting customers within the Service Area where Lake County's network already passes the potential customer's premises; and (b) provide service within a reasonable period of time, if the potential customer is within the Service Area but not passed by Lake County's current network facilities, if service can be provided at reasonable cost by constructing network facilities.”⁷⁹

In addition, post-selection, Lake County will be required to demonstrate its technical and financial qualifications, and its compliance with all statutory and regulatory requirements for the

⁷⁷ Petition at 17.

⁷⁸ Petition at 2.

⁷⁹ Petition at 3.

Rural Broadband Experiment funding it seeks, outside the ETC designation process, directly to the FCC. Lake County has submitted three years of audited financial statements to the FCC, and, as noted above, a detailed description of the technology and system design that will be used to deliver voice and broadband service.⁸⁰ Lake County will be subject to the reporting requirements of 47 C.F.R. 54.313 and 314, compliance reviews (47 C.F.R. 54.320), and the FCC's record retention requirements⁸¹ to ensure accountability.

The Department recommends that Lake County be required to provide a certification, signed by an authorized county official, that it will comply with the service requirements applicable to the support that it receives, as required by 47 C.F.R. 54.202(a) (1) (i).

4. Five-Year Service Improvement Plan (47 C.F.R. 54.202 (a) (2)).

47 C.F.R. 54.202 (a)(2) requires that applicants for ETC status submit a five-year plan that describes, with specificity, the proposed improvements or upgrades to the applicant's network throughout its proposed service area. With respect to the Rural Broadband Experiments, however, the FCC has adopted other requirements. Recipients of Rural Broadband Experiment funds will receive support in 120 equal monthly disbursements over a ten-year term. Recipients will be required to meet interim build-out requirements consistent with the build-out requirements that the FCC has adopted for recipients of Connect America Phase II funding. The FCC therefore found it unnecessary to require that Rural Broadband Experiment recipients file a five year service quality plan for reporting on improvements.⁸²

⁸⁰ *Rural Broadband Experiments Order* at ¶ 54.

⁸¹ Petition at 3.

⁸² *Rural Broadband Experiments Order* at ¶¶ 74 and 77.

Lake County has requested a waiver of the requirement that it provide a five year service quality plan. Waiver is unnecessary in light of the FCC's determination that, for Rural Broadband Experiment recipients it is unnecessary to file a five-year service quality plan.

5. Lake County's Ability to Remain Functional in Emergency Situations (47 C.F.R. 54.202 (a) (3)).

47 C.F.R. 54.202 (a)(2) requires that an applicant for ETC status demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

Lake County states in its Petition that the central office serving Lake County's customers is equipped with electrical generators and battery power supply to provide service in the event of a commercial power outage. With respect to its ability to reroute traffic around damaged facilities, however, Lake County states only that "Loop plant facilities are not redundant. The redundant facilities typically found in end office-to-access tandem facilities are not employed in Lake County's network, since the switch serving its customers is collocated with CenturyLink's access tandem."⁸³

If Lake County does not employ redundant facilities, it should be required to demonstrate what other means it uses to reroute traffic in the event of damaged facilities and the way in which it will manage traffic spikes resulting from emergency situations. The Department believes that Lake County's ETC designation should be conditioned upon such demonstration.

⁸³ Petition at 4.

6. 47 C.F.R. 54.202 (a) (4) and (a) (5).

The Department notes that 47 C.F.R. 54.202 (a)(4) and (a)(5) are applicable to ETC designations of “common carriers seeking designation as an eligible telecommunications carrier for purposes of receiving support *only* under subpart E of this part” (emphasis added). Subpart E addresses universal service support for low income consumers. While Lake County, if designated as an ETC, will be required to offer Lifeline to qualified low income consumers, it is not seeking ETC designation *only* for that purpose. Lake County is seeking ETC designation for the purpose of receiving high-cost universal service funding pursuant to the Rural Broadband experiments. 47 C.F.R. 54.202 (a) (4) and (a) (5) are not applicable to Lake County.

C. Whether Designation of Lake County Is In The Public Interest.

The Commission has found, in its consideration of past ETC applications, that, in general, the designation of qualified competitive ETCs is in the public interest and comports with Minnesota’s telecommunications goals of supporting universal service, maintaining just and reasonable rates, promoting customer choice, encouraging fair and reasonable competition for telephone service in a competitively neutral manner, and maintaining or improving quality of service.

Lake County states that “its vendor’s service offerings are superior to that received by the ILECs’ customers in the service area.” Lake County states that it presently has fiber to the home in its requested service area, and that it “plans to place fiber to the home going forward, offering a technically superior network to that of ILECs.”

Lake County, through its participation in the Rural Broadband experiments will bring the benefit of increased broadband availability to currently unserved and underserved areas in Minnesota. Lake County will be subject to specific public interest obligations imposed on

successful applicants by the FCC, that if not fulfilled can result in revocation of support, including build-out requirements with deadlines and certification requirements, annual reporting and certification requirements under 47 C.F.R. 54.313 and 54.314, requirements to meet FCC latency standards, record retention requirements, and compliance reviews and investigations.

VI. COMMISSION ALTERNATIVES

1. Find that Lake County has made a credible showing of its capability and intent to provide and advertise a telecommunications service supported by 47 U.S.C. § 254, including Lifeline, throughout its proposed service area, has met the applicable requirements of 47 C.F.R. 54.202, and that the designation of Lake County as an ETC is in the public interest. Grant, conditionally, Lake County's Petition for ETC status, conditioned upon Lake County providing complete information regarding its relationship with Lake Communications, and demonstrating, to the Commission's satisfaction, that Lake County has met the "common carrier" requirement of 47 U.S.C. § 214 (e) (1) and (2), and FCC Rule 47 C.F.R. 54.201 (b) and (d). And, further, condition the grant of Lake County's Petition for ETC status upon Lake County agreeing to some or all of the following conditions:⁸⁴
 - a. Lake County shall notify the Department and the Commission if it is unable to serve a Lifeline qualified customer within its service area within ten days of making the determination.
 - b. Within 30 days of any Commission Order designating Lake County as an ETC on a conditional basis, Lake County shall file a supplement to its Petition including the following:
 - i. The specific price at which it will offer standalone Voice Telephony service to customers, to be reflected in the tariff and website of Lake Communications or any subsequent vendor of voice telephony providing the service of Lake County. Such price will be within the range of the rates charged by the incumbent carriers in whose territories Lake County operates, for similar services.

⁸⁴ The grant of the Petition should also be conditioned upon Lake County ensuring performance of the representations in the Petition. See notes 20 and 71, above (Lake County states that it will provide voice telephony service on a common carrier basis throughout its requested service area through an arrangement with its selected "vendor", Lake Communications, Inc. (Lake Communications). Lake Communications will provide voice grade access to the PSTN, flat-rated unlimited local service, access to 911 and E911, and toll limitation at no charge for qualifying low-income consumers.) The Petition further states, "Lake Communications is subject to and complies with the Commission's Rules pertaining to service quality and consumer protection," and "Lake Communications' tariff, as well as the Commission's service quality rules by which Lake Communications is bound will apply throughout the Service Area."

- ii. A copy of the engineer-certified description of the technology and system design that will be used to deliver voice telephony and broadband service to customers in Minnesota, that it has provided to the FCC.
 - iii. A formal advertising plan, listing the specific media and means through which it intends to advertise the availability of voice telephony and Lifeline and a proposed schedule or anticipated frequency of such advertising.
 - iv. A certification, signed by a county official, that it will comply with the service requirements applicable to the support that it receives as required by 47 C.F.R §54.202(a)(2).
 - v. A description of the means by which it will reroute traffic in the event of damaged facilities and the way in which it will manage traffic spikes resulting from emergency situations.
2. Find that Lake County has not made a credible showing that it is a common carrier with the capability and intent to provide and advertise a telecommunications service supported by 47 U.S.C. § 254, including Lifeline throughout its proposed service area, has not met the applicable requirements of 47 C.F.R. 54.202, and/or that its designation as an ETC is in the public interest. Deny Lake County’s Petition for ETC status.
3. Find that granting Lake County’s ETC Petition on a conditional basis is consistent with the requirements of federal law, pending the outcome of a separate proceeding as described below. Find that Lake County has made a credible showing of its capability and intent to provide and advertise a telecommunications service, including Lifeline, throughout its proposed service area, has met the applicable requirements of 47 C.F.R. 54.202, and that its designation as an ETC is in the public interest, conditioned upon some or all of the following⁸⁵ :
- a. Lake County shall require that Lake Communications (or any successor selected by Lake County to provided voice telephony) to collect, remit and report telecommunications Access Minnesota (“TAM”) fees, as described in Minn. Stat. §237.52, with respect to telecommunications services and interconnected VoIP services provided on behalf of Lake County.
 - b. Lake County shall require that Lake Communications (or any successor selected by Lake County to provided voice telephony) collect, remit and report Telephone Assistance Plan (“TAP”) fees, as described in Minn. Stat. § 237.70, with respect to

⁸⁵ The grant of the Petition should also be conditioned upon Lake County ensuring performance of the representations in the Petition. See notes 20, 71 and 84 above.

telecommunications services, and interconnected VoIP services provided on behalf of Lake County.

- c. Lake County shall require that Lake Communications (or any successor selected by Lake County to provided voice telephony) submit reports described in Minn. Stat. § 237.295, subd. 2, to disclose intrastate operating revenues for telecommunications services, and to include interconnected VoIP telephony service revenues in those reports.
- d. Lake County shall require that Lake Communications (or any successor selected by Lake County to provided voice telephony) make customers aware that complaints may be filed with the Commission and shall include the Commission's Consumer Affairs Office contact information in an annual notice.
- e. Lake County shall require that Lake Communications (or any successor selected by Lake County to provided voice telephony) offer the TAP credit to qualifying customers of voice service. Lake County shall require that Lake Communications (or any successor selected by Lake County to provided voice telephony) make Minnesota customers aware of the availability of the TAP credit on its website and customer service representatives will be trained to discuss the TAP credit with qualifying customers. An application will be available to download from the any and all websites offering the voice telephony services of Lake County, and will be mailed to customers upon request.
- f. Lake County shall require that Lake Communications (or any successor selected by Lake County to provided voice telephony) make available standalone voice-grade service to all customers within its service area on a non-discriminatory basis.
- g. Lake County shall abide by the outcome of a separate Commission investigation, regarding interconnected VoIP service. Such separate docket would need to address, at minimum: whether Lake County offers a supported telecommunications service to the public for a fee, and if not, whether section 254 (c) universal service support can be expended on entities who offer only non-telecommunications services and whether the Commission has authority over Lake County's service upon granting the ETC Petition, and, finally, the effect that answers to these questions will have on Lake County.
- h. Lake County shall notify the Commission and the Department, through a tariff filing, of any change to its voice telephony offering terms, conditions, or rates.
- i. Lake County shall notify the Department and the Commission if it is unable to serve a Lifeline qualified customer within its service area within ten days of making the determination.

- j. Within 30 days of any Commission Order designating Lake County as an ETC on a conditional basis, Lake County shall file a supplement to its Petition including the following:
 - i. The specific price at which it will offer standalone voice telephony service to customers, to be reflected in the tariff and website of Lake Communications or any subsequent vendor of voice telephony providing the service of Lake County. Such price will be within the range of the rates charged by the incumbent carriers in whose territories Lake County operates, for similar services.
 - ii. A copy of the engineer-certified description of the technology and system design that will be used to deliver voice and broadband service to customers in Minnesota, that it has provided to the FCC.
 - iii. A formal advertising plan, listing the specific media and means through which it intends to advertise the availability of voice telephony and Lifeline and a proposed schedule or anticipated frequency of such advertising.
 - iv. A certification, signed by a county official, that it will comply with the service requirements applicable to the support that it receives as required by 47 C.F.R §54.202(a)(2).
 - v. A description of the means by which it will reroute traffic in the event of damaged facilities and the way in which it will manage traffic spikes resulting from emergency situations.

VII. DEPARTMENT RECOMMENDATION

The Department recommends alternative 1. Alternatively, if the Commission determines that it can grant Lake County's ETC Petition on a conditional basis and be consistent with the requirements of federal law, pending the outcome of a separate proceeding, and if Lake County agrees, the Department would not object to alternative 3, conditioned upon Lake County's satisfying requirements a through j (including sub-items i through v).



STATE OF MINNESOTA

SUITE 1800
445 MINNESOTA STREET
ST. PAUL, MN 55101-2134
TELEPHONE: (651) 297-2040

March 16, 2015

Mr. Dan Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: Petition of Lake County Minnesota d/b/a Lake Connections for Designation as an
Eligible Telecommunications Carrier
MPUC Docket No. P6944/M-15-65

Dear Mr. Wolf:

Enclosed please find Comments of the Minnesota Department of Commerce on the
Petition of Lake County.

The Petition was filed on January 29, 2015 by:

Thomas G. Burns
Olsen Thielen & Co., Ltd.
2675 Long Lake Road
Saint Paul, MN 55113

Matthew Huddleston
Lake County Minnesota Administrator
601 3rd Avenue
Two Harbors, MN 55616

The Department recommendations are set forth in the attached Comments, and the
Department is available to answer any questions the Commission may have.

Very truly yours,

/s/ **Linda S. Jensen**

Linda S. Jensen

Assistant Attorney General

(651) 757-1472 (Voice)

(651) 297-1235 (Fax)

*Attorney for Minnesota Department of
Commerce*

Service List Members

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret
Julia	Anderson	Julia.Anderson@ag.state.mn.us	Office of the Attorney General-DOC	1800 BRM Tower 445 Minnesota St St. Paul, MN 551012134	Electronic Service	No
Scott	Bohler	scott.bohler@ftr.com	Frontier Communications Corporation	2378 Wilshire Blvd Mound, MN 55364-1652	Electronic Service	No
Thomas	Burns	tgburns@otcpas.com	OLSEN THIELEN & CO. LTD	2675 Long Lake Rd St. Paul, MN 55113	Electronic Service	No
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 500 Saint Paul, MN 55101-2198	Electronic Service	No
Pete	Eggimann	PEGGIMANN@MN-MESB.ORG	Metropolitan Emergency Services Board	2099 University Ave W Ste 201 St. Paul, MN 551043431	Electronic Service	No
Matthew	Huddleston	matthew.huddleston@co.lake.mn.us	Lake County Minnesota	601 3rd Ave Two Harbors, MN 55616	Electronic Service	No
John	Lindell	agorud.ecf@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	No
Gregory R.	Merz	gregory.merz@gpmlaw.com	Gray, Plant, Mooty	80 S 8th St Ste 500 Minneapolis, MN 55402-5383	Electronic Service	No
Jeffrey	Roiland	jeff.s.roiland@gmail.com	Lake Communications	409 17th Ave Two Harbors, Mn 55616	Electronic Service	No
Kevin	Saville	kevin.saville@ftr.com	Citizens/Frontier Communications	2378 Wilshire Blvd. Mound, MN 55364	Electronic Service	No
Jason	Topp	jason.topp@centurylink.com	CenturyLink	200 S 5th St Ste 2200 Minneapolis, MN 55402	Electronic Service	No

Dana	Wahlberg	dana.wahlberg@state.mn.us	Department of Public Safety	Town Square Ste 137 444 Cedar St St. Paul, MN 551015126	Electronic Service	No
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	No